UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
WOOD, WILLIAM H

ART UNIT	PAPER NUMBER
2124	

DATE MAILED: 12/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	**Applicant(s)**
Office Action Summary	09/780,038	WOOKEY, MICHAEL J.
	Examiner	**Art Unit**
	William H. Wood	2124

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _29 April 2003_.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
     closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-22_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-22_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _09 February 2001_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
         application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application)
     since a specific reference was included in the first sentence of the specification or in an Application Data Sheet.
     37 CFR 1.78.

    a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific
     reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _4 and 7_.

4) ☐ Interview Summary (PTO-413) Paper No(s). _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other:

DETAILED ACTION

Claims 1-22 are pending and have been examined.

Drawings

1.   The drawings submitted were approved by the draft person.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Cole et al. (USPN 5,752,042) in view of **Goldband** et al. (USPN 6,434,532).

Claim 1

Cole disclosed a method for installing systems management software on a host device

to be remotely monitored *(column 1, line 44 to column 2, line 12)*, comprising:

- communicatively linking an installation station and the host device, wherein

    the host device is positioned remote from the installation station *(Figure 2,*

    elements 12 and 17; and Figure 1, elements 14-16);

- receiving over the communication link at the installation station computing

    environment information for the host device *(column 5, lines 65-67)*;

- ◆ transmitting a software payload comprising the systems management software from the installation station to the host device *(column 1, lines 59-65)*;

- ◆ first operating the install the software payload on the host device *(column 6, lines 46-49)*; and

- ◆ second operating to configure the installed software payload based on the computing environment information *(Cole: column 1, line 45 to column 2, line 12; column 3, lines 40-55; newly installed software must be configured properly in order to work)*.

Cole did not explicitly state loading an installation tool from the installation station in order to install the transferred payload. **Goldband** demonstrated that it was known at the time of invention to utilize programs/tools/agents to install software (column 2, lines 10-16) and that these tools are downloaded and thus loaded from a central source (column 2, line 66 to column 3, line 2). It would have been obvious to one of ordinary skill in the art at the time of invention to implement **Cole**'s software updating system with agents/tools for installing the new software as found in **Goldband**'s teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide an installation tool/agent which is up-to-date and well maintained (i.e. from the central managed site).

Cole did not explicitly state automatically installing. **Goldband** demonstrated that it was known at the time of invention to install automatically (column 2, lines 15-16; column 3,

lines 15-21). It would have been obvious to one of ordinary skill in the art at the time of

invention to implement the information retrieval and installation system of **Cole** with

automatic installation as found in **Goldband**'s teaching. This implementation would

have been obvious because one of ordinary skill in the art would be motivated to allow a

user "hands-off" approach (allowing for less client user work).

Claim 2

Cole and **Goldband** disclosed the method of claim 1, wherein the computing

environment information includes information selected from the group consisting of host

information, identification of modules for monitoring the host device, thresholds based

on configuration of the host device, and installation commands to run during the first

operating *(Cole: column 1, lines 49-54; column 3, lines 40-55)*.

Claim 3

Cole and **Goldband** disclosed the method of claim 1, further including loading a survey

tool on the host device and running the survey tool to automatically gather the

computing environment information *(Cole: column 1, lines 49-54)*.

Claim 4

Cole and **Goldband** disclosed the method of claim 3, further including prior to the

installation tool loading and the survey tool loading, transmitting the installation tool and

the survey tool from the installation station to the host device *(Cole: column 1, lines 45-*

54; column 3, lines 40-55). **Cole** did not explicitly state downloading an installation tool

from the installation station in order to install the transferred payload. **Goldband**

demonstrated that it was known at the time of invention to utilize programs/tools/agents

to install software (column 2, lines 10-16) and that these tools are downloaded from a

central source (column 2, line 66 to column 3, line 2). It would have been obvious to

one of ordinary skill in the art at the time of invention to implement **Cole**'s software

updating system with agents/tools for installing the new software as found in

Goldband's teaching. This implementation would have been obvious because one of

ordinary skill in the art would be motivated to provide an installation tool/agent which is

up-to-date and well maintained (i.e. from the central managed site).

Claim 5

Cole and **Goldband** disclosed the method of claim 3, wherein the survey tool is

configured to create an extensible markup language (XML) descriptor file including the

computing environment information. Official Notice is taken that it was known at the

time of invention to utilize files as a medium of transport and storage of output and a

common type of file is an XML file. It would have been obvious to one of ordinary skill in

the art at the time of invention to implement the output of **Cole** within an XML file. This

implementation would have been obvious because one of ordinary skill in the art would

be motivated to produce output in such a manner as is standard (and thus easy to

implement, XML is a standard file type used in networks especially) in the computer

world.

<u>Claim 6</u>

Cole and **Goldband** disclosed the method of claim 1, further including providing the

installation station with access to a data storage device storing differing ones of the

systems management software and with the installation station, selecting the software

payload from the differing ones based on the received computing environment

information *(Cole: column 2, lines 35-47; column 1, line 44 to column 2, line 13; clients*

are being "surveyed" independently for differing versions and thus different updates).

<u>Claim 7</u>

Cole disclosed a method of deploying systems management software within a network

including multiple managed hosts *(column 1, line 44 to column 2, line 12)*, comprising:

- ◆ positioning an installation station within the network *(Figure 1, elements 12*

  and 17), wherein the installation station includes data storage for storing the

  systems management software and is in communication with a first and a

  second one of the managed hosts *(Figure 2, elements 12 and 17; and Figure*

  1, elements 14-16);

- ◆ at the first and the second ones, downloading a survey tool from the

  installation station *(column 1, lines 49-54)*;

- ◆ executing the downloaded survey tools to gather environment information for-

  the first and second ones and to create output comprising the gathered

  environment information *(column 1, lines 49-54)*;

- ◆ transmitting the output from the first and second ones to the installation

    station *(column 5, lines 65-67)*;

- ◆ in response to receiving the output, transferring a payload of the systems

    management software to the first and second ones *(column 1, lines 59-65)*;

    and

- ◆ at the first and second ones, installing the transferred payloads *(column 6,*

    lines 46-49).

Cole did not explicitly state downloading an installation tool from the installation station

in order to install the transferred payload. **Goldband** demonstrated that it was known at

the time of invention to utilize programs/tools/agents to install software (column 2, lines

10-16) and that these tools are downloaded from a central source (column 2, line 66 to

column 3, line 2). It would have been obvious to one of ordinary skill in the art at the

time of invention to implement **Cole**'s software updating system with agents/tools for

installing the new software as found in **Goldband**'s teaching. This implementation

would have been obvious because one of ordinary skill in the art would be motivated to

provide an installation tool/agent which is up-to-date and well maintained (i.e. from the

central managed site).

Cole and **Goldband** did not explicitly state survey tools creating output *files*. Official

Notice is taken that it was known at the time of invention to utilize files as a medium of

transport and storage of output. It would have been obvious to one of ordinary skill in

the art at the time of invention to implement the output of **Cole** within a file. This

implementation would have been obvious because one of ordinary skill in the art would be motivated to produce output in such a manner as is standard (and thus easy to implement) in the computer world.

Claim 8

Cole and **Goldband** disclosed the method of claim 7, wherein the survey tool downloading, the executing, the installation tool downloading, the transmitting, and the installing occur at least partially concurrently at the first and the second ones of the managed hosts *(Figure 1, elements 14-16 and elements 12 and 17 are all connected in parallel, thus "partially concurrently")*.

Claim 9

Cole and **Goldband** disclosed the method of claim 8, further including transmitting from the first and second ones an installation initiation request to the installation station and in response to receiving the installation requests, establishing with the installation station a first active installation session and a second active installation session for remotely and concurrently managing the transferring and the installing of the payloads *(column 3, lines 14-17; and column 6, lines 1-25)*.

Claim 10

Cole and **Goldband** disclosed the method of claim 7, wherein the gathered environment information for the first one differs from the gathered environment

information for the second one and further including prior to the transferring *(column 2, lines 35-47)*, selecting a first portion of the systems management software for inclusion in the payload to the first one based on the gathered environment information and selecting a second portion of the systems management software for inclusion in the payload to the second one based on the gathered environment information *(column 1, line 44 to column 2, line 13; clients are being "surveyed" independently for differing versions and thus different updates)*.

Claim 11

Cole and **Goldband** disclosed the method of claim 10, further including after the installing of the transferred payloads, configuring the installed payloads at the first and second ones based on the differing environment information *(Cole: column 1, line 44 to column 2, line 13; clients are being "surveyed" independently for differing versions and thus different updates/configurations)*.

Claim 12

Cole and **Goldband** did not explicitly state the method of claim 7, further including allocating network addresses to network devices associated with the first and second ones. Official Notice is taken that it was known at the time of invention to utilize the dynamic SLIP protocol wherein a user's IP address is assigned every time a user connects. It would have been obvious to one of ordinary skill in the art at the time of invention to implement the networked system of **Cole** and **Goldband** with dynamic

allocation of network address using dynamic SLIP. This implementation would have

been obvious because one of ordinary skill in the art would be motivated to provide the

above system with commonly known technology to efficiently use a limited number of IP

addresses.

Claim 13

Cole and **Goldband** did not explicitly state the method of claim 12, wherein the network

address allocating is performed at least partially concurrently with the installing and

wherein network addresses are selected from network addresses preprogrammed into a

router based on a forecasted number of the associated network devices. Official Notice

is taken that it was known at the time of invention to utilize the dynamic SLIP protocol

wherein a user's IP address is assigned every time a user connects. It would have

been obvious to one of ordinary skill in the art at the time of invention to implement the

networked system of **Cole** and **Goldband** with dynamic allocation of network address

using dynamic SLIP. This implementation would have been obvious because one of

ordinary skill in the art would be motivated to provide the above system with commonly

known technology to efficiently use a limited number of IP addresses. Official Notice is

also taken that installing software upon startup or connection to a service was known at

the time of invention. It would have been obvious to one of ordinary skill in the art at the

time of invention to implement the network system of **Cole** and **Goldband** with installing

partially concurrent with dynamic address allocation. This would have been obvious

because one of ordinary skill would have been motivated to perform routine "house

keeping" functions upon connection (both functions are carried out typical upon
connection, thus partially concurrently).

Claim 14

Cole disclosed a networked method for automatically deploying and installing agent
software in a network computer device *(column 1, line 44 to column 2, line 12; agent
software is a subset of code updates)*, comprising:

- communicatively linking an installation station via a communications network
  to the network computer device *(Figure 1)*;

- downloading a survey from the installation station onto the network computer
  device *(column 1, lines 45-54; column 3, lines 40-55)*;

- executing the survey to automatically create an output defining a computing
  environment for the network computer device *(column 1, lines 45-54; column
  3, lines 40-55; column 5, lines 42-67)*;

- transfer a copy of the output to the installation station *(column 1, lines 55-65)*;

- in response to receiving the copy, transferring the agent *(in this case agent
  refers to updated software)* software to the network computer device over the
  communications network *(column 1, lines 55-65)*; and

- installing the agent software on the network computer device with the
  installation Daemon *(column 6, lines 46-49)*.

Cole did not explicitly state downloading an installation tool from the installation station
in order to install the transferred payload. **Goldband** demonstrated that it was known at

the time of invention to utilize programs/tools/agents to install software (column 2, lines 10-16) and that these tools are downloaded from a central source (column 2, line 66 to column 3, line 2). It would have been obvious to one of ordinary skill in the art at the time of invention to implement **Cole**'s software updating system with agents/tools for installing the new software as found in **Goldband**'s teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide an installation tool/agent which is up-to-date and well maintained (i.e. from the central managed site).

Cole did not explicitly state installation tool for transmitting the environment information over the communications network. **Goldband** demonstrated that it was known at the time of invention to utilize programs/tools/agents to install programs and to transmit data back to a central server/site (column 2, lines 2-17). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the updating/installing system of **Cole** with installation program to send information about the host/client system to the central server as found in **Goldband**'s teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide single a program (such as an agent; single program demonstrated in prior art as an effective solution) which can effectively gather information, send information and install programs.

Cole did not explicitly state automatically installing. **Goldband** demonstrated that it was known at the time of invention to install automatically (column 2, lines 15-16; column 3, lines 15-21). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the information retrieval and installation system of **Cole** with automatic installation as found in **Goldband**'s teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to allow a user "hands-off" approach (allowing for less client user work).

Cole and **Goldband** did not explicitly state survey tools creating output *files*. Official Notice is taken that it was known at the time of invention to utilize files as a medium of transport and storage of output. It would have been obvious to one of ordinary skill in the art at the time of invention to implement the output of **Cole** within a file. This implementation would have been obvious because one of ordinary skill in the art would be motivated to produce output in such a manner as is standard (and thus easy to implement) in the computer world.

Cole and **Goldband** did not explicitly state survey tool being a *script*. Official Notice is taken that it was known at the time of invention to utilize scripts as executable commands. It would have been obvious to one of ordinary skill in the art at the time of invention to implement the system of **Cole** and **Goldband** with a survey tool as a script. This implementation would have been obvious because one of ordinary skill in the art

would be motivated to provide a survey tool as a commonly implemented element such as a script (scripts are often used due to easy maintainability).

Claim 15

Cole and **Goldband** disclosed the method of claim 14, further including performing modifications of the installed agent software based on the output file to enhance operation of the installed agent software *(**Goldband**: column 2, lines 15-17; **Cole**: column 3, lines 14-39)*.

Claim 16

Cole and **Goldband** disclosed the method of claim 14, wherein the output file includes information selected from the group consisting of network computer device hardware and software configuration information, identification of modules for monitoring the network computer device, thresholds based on configuration of the network computer device, and installation commands for the installation Daemon to run during the installing *(**Cole**: column 1, lines 49-54; column 3, lines 40-55; **Goldband**: column 4, lines 1-23; column 2, lines 15-17)*.

Claim 17

Cole and **Goldband** did not explicitly state the method of claim 14, wherein the installation Daemon is adapted to create progress messages during the installing and wherein the progress messages are accessible by the network computer device.

However, **Goldband** demonstrated that it was known at the time of invention to send

information about current states and processes to the server (column 3, lines 15-22)

and making that information available to the user (column 4, line 63 to column 5, line

12). It would have been obvious to one of ordinary skill in the art at the time of invention

to implement the installation system of **Cole** and **Goldband** with creating progress

messages during installation and reporting to interested parties as suggested by

Goldband's own teaching. This implementation would have been obvious because one

of ordinary skill in the art would be motivated to provide information in the event of an

error about services **Goldband** is demonstrated to be performing (column 2, lines 2-17).

Claim 18

Cole disclosed a network system for remotely monitoring an operating computer system

(column 1, line 44 to column 2, line 12), comprising:

- a managed host in the operating computer system linked to a

  communications network _(Figure 1, elements 14-16)_, the managed host

  including a survey tool for automatically gathering environment information

  (column 1, lines 45-54; column 3, lines 40-55) and an installation tool for

  installing systems management software on the managed host _(column 6,_

  lines 46-49); and

- an installation station linked to the communications network configured to

  receive the environment information _(column 1, lines 45-59)_ and in response

to transmit a payload of the systems management software to the managed

host *(column 1, lines 59-65)*.

Cole did not explicitly state installation tool for transmitting the environment information

over the communications network. **Goldband** demonstrated that it was known at the

time of invention to utilize programs/tools/agents to install programs and to transmit data

back to a central server/site (column 2, lines 2-17). It would have been obvious to one

of ordinary skill in the art at the time of invention to implement the updating/installing

system of **Cole** with installation program to send information about the host/client

system to the central server as found in **Goldband**'s teaching. This implementation

would have been obvious because one of ordinary skill in the art would be motivated to

provide single a program (such as an agent; single program demonstrated in prior art as

an effective solution) which can effectively gather information, send information and

install programs.

Cole did not explicitly state automatically installing. **Goldband** demonstrated that it was

known at the time of invention to install automatically (column 2, lines 15-16; column 3,

lines 15-21). It would have been obvious to one of ordinary skill in the art at the time of

invention to implement the information retrieval and installation system of **Cole** with

automatic installation as found in **Goldband**'s teaching. This implementation would

have been obvious because one of ordinary skill in the art would be motivated to allow a

user "hands-off" approach (allowing for less client user work).

Claim 19

Cole and **Goldband** disclosed the system of claim 18, wherein the installation tool is

further configured to modify the installed systems management software based on the

environment information *(Goldband: column 2, lines 15-17)*.

Claim 20

Cole and **Goldband** disclosed the system of claim 18, wherein the installation station

processes the environment information to select the payload to match the environment

information *(Cole: column 1, line 45 to column 2, line 12; column 3, lines 40-55)*.

Claim 21

Cole and **Goldband** disclosed the system of claim 18, further including a remote

service linked to the communications network and operable to monitor operations of the

computer system via execution of the installed systems management software on the

managed host *(Goldband: column 2, lines 15-17; Cole: column 3, lines 9-11)*.

Claim 22

Cole and **Goldband** did not explicitly state the system of claim 21, wherein the

installation tool functions to generate an installation report and transmit the installation

report to the installation station, wherein the installation station functions in response to

the installation report to transmit a request for approval of adding the managed host to

the network system to the remote service, and wherein the remote service responds to the request for approval by determining whether to begin monitoring the managed host.

However, **Goldband** demonstrated that it was known at the time of invention to send information about current states and processes to the server (column 3, lines 15-22) and making that information available to the user (column 4, line 63 to column 5, line 12). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Cole** and **Goldband** with creating progress messages during installation and reporting to interested parties as suggested by **Goldband**'s own teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide information in the event of an error about services **Goldband** is demonstrated to be performing (column 2, lines 2-17).

Goldband demonstrated that it was known at the time of invention to provide for management functions (column 4, lines 1-23) and report to a central site (column 3, lines 15-22; column 4, line 63 to column 5, line 12). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the network system of **Goldband** and **Cole** with conditional inclusion depending on a report of installation. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide the server with communicating to fully functioning agent or other software that is installed error free.

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (703)305-3305. The examiner can normally be reached 7:30am - 5:00pm Monday thru Thursday and 7:30am - 4:00pm every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (703)305-9662. The fax phone numbers for the organization where this application or proceeding is assigned are (703)746-7239 for regular communications and (703)746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

William H. Wood
December 18, 2003

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